

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Donald Mark Shoff,

Petitioner,

v.

John Ashcroft, Attorney General,
United States Department of Justice,
and John L. LaManna, Warden of the
Federal Correctional Institution at
Edgefield, South Carolina,

Respondent.

C/A No. 8:04-22298-GRA-BHH

ORDER
(Written Opinion)

This matter is before this Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), D.S.C., and filed June 15, 2005. Petitioner seeks habeas corpus relief pursuant to 28 U.S.C. § 2241. On December 17, 2004 the respondents filed a summary judgment motion. The petitioner filed his response on January 18, 2005. The magistrate recommends granting the respondents' summary judgment motion and dismissing the petition.

Petitioner is a federal prisoner currently incarcerated at the Edgefield Federal Correctional Institution (FCI-Edgefield) in Edgefield, South Carolina. Petitioner is proceeding with the assistance of counsel.

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.*

In order for objections to be considered by a United States District Judge, the objections must be timely and must specifically identify the portions of the Report and Recommendation to which the party objects and the basis for the objections. Fed. R. Civ. P. 72(b); *see United States v. Schronce*, 727 F.2d 91, 94 n.4 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841, 845-47 nn.1-3 (4th Cir. 1985). "Courts have . . . held *de novo* review to be unnecessary in . . . situations when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendation." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). Petitioner filed objections to the magistrate's Report and Recommendation on July 1, 2005. After reviewing the petitioner's objections, the Court finds that his objections


only address the magistrate's recommendation to deny granting prior custody credits against his federal sentence. The Court also finds that petitioner's objections are merely restatements of his response to respondents' motion for summary judgment as to this issue .

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

The Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the respondents' summary judgment motion is GRANTED and this action is DISMISSED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

August 15, 2005

NOTICE OF RIGHT TO APPEAL

Petitioner has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.